

JAN-30-2004 12:14

BURTON LAB

858 784 8360 P.02/03

TSRI 414.0 Div.1/SCR 2364F

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Burton et al.  
Serial No. : 10/079,802  
Filed : February 19, 2002  
Title : LIGAND CAPTURE-DIRECTED SELECTION OF ANTIBODY

Art Unit : 1648  
Examiner : Donna Wortman

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION OF DENNIS BURTON UNDER 37 C.F.R. §1.132

Dear Sir:

1) I, Dennis Burton Ph.D., am one of the named inventors of the invention claimed in the above-identified application. The invention described and claimed in the subject application was conceived by myself, Roberto Burioni, Anthony Williamson and Pietro Sanna, and reduced to practice under our direction and supervision.

2) I am a co-author with Roberto Burioni, Anthony Williamson, Pietro Sanna and F.E. Bloom, in a publication entitled "Recombinant human Fab to glycoprotein D neutralizes infectivity and prevents cell-to-cell transmission of herpes simplex virus type-1 and -2 in vitro," in *Proc. Natl. Acad. Sci. USA*, 91:355, 1994, hereinafter "Burioni et al."

3) I have reviewed the above-identified application, the claims presently pending in the application, and the Office Action mailed August 15, 2003.

4) I understand that claims 16, 17, 18, 21 and 24 have been rejected under 35 U.S.C. §102(a) as allegedly anticipated by Burioni et al. As noted above, I am a co-author of this cited reference.

5) F.E. Bloom is a co-author of the cited Burioni et al. reference, but is not an inventor of the invention claimed in the above-identified application. Specifically, F.E. Bloom did not contribute to the mental conception of the present invention.

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8) I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

  
Dennis Burton, M.D.

1-30-04  
Date

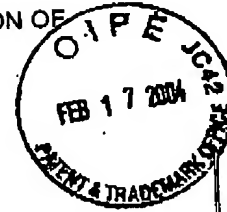
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TH: THE UNITED STATES PATENT AND TRADEMARK OFFICE IS  
RE: REQUESTED TO IMPRESS ITS STAMP ON THIS CARD AND  
PL: PLACE SAME IN THE OUT-GOING MAIL TO SHOW THE FOLLOWING  
PA: PAPERS HAVE BEEN RECEIVED

Date Mailed: February 10, 2004  
MJM/nlb  
Our Ref: TSRI 414.0 D1  
SCR 2384P

Ap Applicant(s): Burton, et al.  
Ap Application No.: 10/079,802  
De Date Filed: February 19, 2002  
Tit Title of Invention: LIGAND CAPTURE-DIRECTED SELECTION OF  
ANTIBODY



- En Enclosed:
- T - Transmittal Form (1 page)
  - F - Fee Transmittal (1 page)
  - P - Petition for 3 month Extension of Time (1 page)
  - R - Response to Office Action (6 pages)
  - P - Power of Attorney by Assignee (2 pages); Copy of recorded Assignment (3 pages)
  - N - Notice of Appeal (1 page)
  - D - Declaration of Dennis Burton (2 pages)
  - C - Check No. 3794 in the amount of \$86.00 for Excess Claims Fee
  - C - Check No. 3795 in the amount of \$950.00 for 3 mo. extension of time
  - C - Check No. 3796 in the amount of \$330.00 for Notice of Appeal
  - C - Certification of Mailing (included on Response)